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5 UNITED STATES DISTRICT COURT
6 EASTERN DISTRICT OF WASHINGTON
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8 P.D., a minor child through her
9 guardian L.D., and L.D.,
individually,

10 Plaintiffs,

11 v.
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13
14 UNITED STATES OF AMERICA,
15 and CLINTON NICHOLSON,
individually,

16 Defendants.
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NO. CV-11-192-JLQ

ORDER DENYING DEFENDANT
UNITED STATES' MOTION TO
DISMISS AS MOOT

18 On September 26, 2011 Plaintiffs' moved the court to amend the Complaint
19 in order to withdraw two claims asserted against the United States. Leave of court
20 was granted and on October 24, 2011, the Second Amended Complaint was filed.
21 ECF No. 51. On October 13, 2011, the United States filed a Motion to Dismiss (ECF
22 No. 44) seeking to dismiss the claims against the United States based on Defendant
23 Nicholson's alleged misconduct. The United States' Motion did not refer to the then
24 pending Motion to Amend. *See* ECF No. 46 at 2. Plaintiffs' response to the United
25 States' Motion to Dismiss evidences the Plaintiffs and the United States are in
26 agreement that the Second Amended Complaint omits the claims that were the
27 subject of the Motion to Dismiss.

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1 Accordingly, **IT IS HEREBY ORDERED:** The United States' Motion to
2 Dismiss (ECF No. 44) is **DENIED** as **MOOT**.

3 The Clerk is directed to enter this Order and to provide copies to counsel.

4 Dated November 2, 1011.

5 s/ Justin L. Quackenbush
6 JUSTIN L. QUACKENBUSH
7 SENIOR UNITED STATES DISTRICT JUDGE
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